IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 22422 of 1996

Between:

Sd.Muneer S/o.Syed Iqbal, Driver,
Staff No.36988 Resident of H.No/1-10-78
Phulong Nizamabad

..... PETITIONER

AND

1. The Regional Manager APSRTC, Nizamabad

2. The Depot Manager APSRTC, Nizamabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of *Mandamus* declaring the action of the first respondent in rejecting the appeal of the petitioner vide orders Dt.25/7/1996 as illegal, arbitrary unjust and violative of principles of natural justice and violative of fundamental rights guaranteed under Art.14,19 and 21 of the Constitution of India and set aside the same.

For the Petitioner: MRK.M.MAHENDER REDDY, ADVOCATE

For the Respondents: MR. K. HARINATH, S.C. FOR APSRTC

The Court made the following:

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THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.22422 OF 1996

O R D E R:

The petitioner was working as a driver in the A.P.S.R.T.C. retired after the institution of this writ petition. On 3.10.1989 while he was driving the bus from Karimnagar, an accident occurred, in which a cyclist was knocked down and sustained injuries. The petitioner was subjected to prosecution for rash and negligent driving. The injured cyclist is stated to have submitted a compromise petition before the Judicial First Class Magistrate, Jagityal vide Crl.M.P.No.359 of 1990, whereupon the petitioner was acquitted under section 320 (8) Cr.P.C. by the order of the court dated 13.2.1990. Despite the acquittal, departmental proceedings were initiated against the petitioner alleging rash and negligent driving causing major accident to the cyclist, consequent of which, the cyclist sustained a serious head injury and another charge of lacking of anticipation and road sense causing major accident with cyclist which also constitutes misconduct under Regulation 28 (IX-A,B) of the A.P.S.R.T.C Employees Conduct Regulations, 1963. The petitioner submitted an explanation and after a due process of enquiry, the Disciplinary Authority i.e. the Depot Manager, A.P.S.R.T.C. Nizamabad imposed a penalty on the petitioner i.e. deferment of annual increment for two years with cumulative effect.

2 . Aggrieved by the same, the petitioner filed an appeal before the Divisional Manager, Nizamabad. The Appellate Authority reduced the penalty imposed by the primary authority to one of deferring annual increment for a period of one year with

cumulative effect. Aggrieved thereby, he submitted several representations including one to the first respondent. By the orders dated 25.07.1996, the first respondent declined interference with the Appellate authority's order imposing the penalty of deferment of annual increment for a period of one year with cumulative effect. On his appellate and revisional options before the departmental authority having been exhausted, the petitioner filed this writ petition.

The enquiry report has not filed. The order of the Primary Authority-the Depot Manager has not been filed nor has the order of the Appellate Authority-the Regional Manager been filed. Only the order of Regional Manager declining interference on the representation of the petitioner has been filed which merely records that no interference is called for as the Appellate Authority had already reduced the penalty imposed on the petitioner to one of deferment of the annual increment for one year with cumulative effect. Even in the affidavit filed in support of the petition, the petitioner does not allege that either no opportunity was offered to him, an enquiry was not conducted or reasonable and transparent opportunity was not afforded to him for cross-examination or for examination of the relevant documents. No procedural infirmities in the departmental enquiry are urged. The learned counsel for the petitioner would in extremis urge that the punishment of deferment of one annual increment with cumulative effect is disproportionate to the charge alleged against him. This contention requires to be rejected. As the petitioner is alleged to have committed and was found guilty of the mis-conduct of rash and negligent driving and lacking anticipation in road sense that is required by a driver of a Corporation engaged in public transport, which has an extensive presence on the public roads in the State, the standard of care warranted by such an employee of a public corporation is a stringent standard in the interests of the general public. As the findings on the allegations are against the petitioner, the penalty is not disproportionate. The punishment of stoppage of deferment increment for one year with cumulative effect cannot be held to be disproportionate, in the circumstances.

On the above analysis, this court discerns no merits in this writ petition.

The writ petition is accordingly dismissed. No order as to costs.

10.08.2004

Ksn/Pvsn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Regional Manager APSRTC, Nizamabad

2. The Depot Manager APSRTC, Nizamabad

3. Two C.D. copies